

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, ss.
SOUTHERN DISTRICT

SUPERIOR COURT

Docket No. 226-2020-CV-00536

MWH HOLDINGS, LLC,
Plaintiff,

v.

CERTAIN UNDERWRITERS AT LLOYD'S, LONDON SUBSCRIBING TO
CERTIFICATE NO. XEQ3461418, IMPROPERLY NAMED AS CERTAIN
UNDERWRITERS AT LLOYD'S OF LONDON

Defendant.

NOTICE TO STATE COURT OF FILING OF NOTICE OF REMOVAL

**TO THE CLERK FOR THE
HILLSBOROUGH COUNTY – SOUTHERN DISTRICT SUPERIOR COURT**

Please take notice that a Notice of Removal, a true and accurate copy of which is attached hereto as Exhibit "A", was filed by Defendant, Certain Underwriters at Lloyd's, London, Improperly Named as Certain Underwriters at Lloyd's of London, in the office of the Clerk of the United States District Court for the District of New Hampshire, pursuant to Title 28 United States Code §§ 1441 and 1446, on the 2nd day of December, 2020, relative to the removal and transfer of the above-captioned action.

Respectfully submitted,

CERTAIN UNDERWRITERS AT LLOYD'S,
LONDON, SUBSCRIBING TO CERTIFICATE
NO. XEQ3461418, IMPROPERLY NAMED AS
CERTAIN UNDERWRITERS AT LLOYD'S OF
LONDON

Dated: December 2, 2020

By Its Attorneys,

MORRISON MAHONEY LLP

By: /s/ Brian A. Suslak

Brian A. Suslak, #269917
bsuslak@morrisonmahoney.com
1001 Elm Street, Suite 304
Manchester, NH 03101
Phone: 603-622-3400
Fax: 617-342-4882

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following persons on this date in the manner specified herein:

Electronically Served:

William Aivalikles, Esq.
253 Main Street
Nashua, NH 03060
Counsel for Plaintiff

/s/ Brian A. Suslak

Brian A. Suslak, #269917

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

MWH HOLDINGS, LLC,

Plaintiff,

v.

Docket No.

CERTAIN UNDERWRITERS AT LLOYD'S,
LONDON SUBSCRIBING TO CERTIFICATE NO.
XEQ3461418, IMPROPERLY NAMED AS CERTAIN
UNDERWRITERS AT LLOYD'S OF LONDON,

Defendant.

NOTICE OF REMOVAL

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Pursuant to the provisions of 28 U.S.C. §§ 1446, Defendant, Certain Underwriters at Lloyd's, London Subscribing to Certificate No. XEQ3461418 ("Underwriters"), Improperly Named as Certain Underwriters at Lloyd's of London, hereby invokes this Court's jurisdiction under the provisions of 28 U.S.C. §§ 1332 and 1441(a) and states the following grounds for removal:

1. On or about October 19, 2020, Plaintiff, MWH Holdings, LLC ("Plaintiff") filed an action (the "State Court Action") in Hillsborough County – Southern District Superior Court against Underwriters, styled and captioned as above and assigned Case No. 226-2020-CV-00536. Plaintiff has alleged Breach of Contract and Negligence against Underwriters arising out of a dispute between the parties concerning the value of property damage allegedly sustained by Plaintiff on or about July 11, 2019.

2. Plaintiff served Underwriters with the Complaint in the State Action on November 5, 2020. A true copy of the Affidavit of Service, Summons, and Complaint in the State Court Action is attached hereto as Exhibit “A”.
3. Having been filed within 30 days of service of the Complaint, this Notice of Removal to the United States District Court has been filed in a timely manner pursuant to the provisions of 28 U.S.C. § 1446(b). See Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 347-48, 119 S. Ct. 1322, 1325 (1999).
4. Jurisdiction exists over this removed action, pursuant to 28 U.S.C. § 1441, because this action could originally have been filed in this Court, pursuant to 28 U.S.C. § 1332(a)(1), on the basis that there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000:
 - a. In the Complaint, Plaintiff alleges that Underwriters operate as “Lloyd’s” with a service of suit address at 25 W. 53rd St., 14th Floor, New York, NY 10019. (Ex. A.) There are no underwriting members residing or incorporated in the United States of America as recorded in the Lloyd’s Membership system as of this date that participated in any of the syndicates effective during the 2018 underwriting year of account. Accordingly, Underwriters are citizens and/or subjects of a foreign country.
 - b. Based upon the Complaint, Plaintiff is a New Hampshire limited liability company, with a principal place of business in Nashua, New Hampshire.
 - c. The Complaint alleges that Underwriters is obligated to pay Plaintiff and/or pay on Plaintiff’s behalf sums in excess of \$75,000.

5. Pursuant to 28 U.S.C. §§ 101 and 1441(a), the United States District Court for the District of New Hampshire is the proper forum for removal of the state court action which was commenced in Hillsborough County – Southern District Superior Court.
6. Pursuant to 28 U.S.C. § 1446(d), Underwriters will give written notice of this Notice to Plaintiff and will file a copy of this Notice with the clerk of the Hillsborough County – Southern District Superior Court promptly after it has filed this Notice with this Court.
7. Pursuant to 28 U.S.C. § 1447 and Local Rule 81.1(c), Underwriters will file or cause to be filed certified or attested copies of the docket sheet and documents filed in this case in the Superior Court with this Court within fourteen (14) days after filing this Notice.

WHEREFORE, Underwriters respectfully requests that the action pending in Hillsborough County – Southern District Superior Court be removed therefrom to this Court and proceed as an action properly so removed.

Respectfully submitted,

CERTAIN UNDERWRITERS AT LLOYD'S,
LONDON, SUBSCRIBING TO CERTIFICATE
NO. XEQ3461418, IMPROPERLY NAMED
AS CERTAIN UNDERWRITERS AT
LLOYD'S OF LONDON

By Its Attorneys,

MORRISON MAHONEY LLP

Date: December 2, 2020

/s/ Brian A. Suslak

Brian A. Suslak, #269917
bsuslak@morrisonmahoney.com
1001 Elm Street, Suite 304
Manchester, NH 03101
Phone: 603-622-3400
Fax: 617-342-4882

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following persons on this date in the manner specified herein:

Electronically Served:

William Aivalikles, Esq.
253 Main Street
Nashua, NH 03060
Counsel for Plaintiff

/s/ Brian A. Suslak

Brian A. Suslak, #269917

EXHIBIT A



**The State of New Hampshire
Insurance Department**

21 South Fruit Street, Suite 14
Concord, NH 03301
(603) 271-2261 Fax (603) 271-1406
TDD Access: Relay NH 1-800-735-2964

Christopher R. Nicolopoulos
Commissioner

NOVEMBER 5, 2020

CERTIFIED MAIL

7011 2000 0001 8843 3934

**ATTN: BARBARA DEMOSTHENE
LLOYD'S AMERICA, INC.
280 PARK AVENUE, EAST TOWER 25TH FLOOR
NEW YORK, NY 10017**

Dear Sir or Madam:

You are hereby notified of the service upon me as attorney for your Company of a **COMPLAINT FOR BREACH OF CONTRACT**.

MWH Holdings, LLC v. Certain Underwriters at Lloyd's of London, principal defendant(s).

This process is brought in the **Hillsborough Superior Court Southern District**, of **Hillsborough County**. You must respond to this **Complaint for Breach of C** in accordance with the requirements of the court. Pursuant to RSA 405:10, legal process served upon the Commissioner shall have the same effect as if served personally on the company. Please see attached a copy of this process.

Very truly yours,

A handwritten signature in cursive script that reads "Christopher R. Nicolopoulos".

Christopher R. Nicolopoulos
Commissioner

Enclosure

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Southern District
30 Spring Street
Nashua NH 03060

RECEIVED
NH INSURANCE DEPARTMENT
NOV 05 2020
Telephone: 603-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

SUMMONS IN A CIVIL ACTION



Case Name: **MWH Holdings, LLC v Certain Underwriters at Lloyd's of London**
Case Number: **226-2020-CV-00536**

Date Complaint Filed: October 19, 2020

A Complaint has been filed against Certain Underwriters at Lloyd's of London in this Court. A copy of the Complaint is attached.

The Court ORDERS that ON OR BEFORE:

- | | |
|-----------------------------------|--|
| December 05, 2020 | MWH Holdings, LLC shall have this Summons and the attached Complaint served upon Certain Underwriters at Lloyd's of London by in hand or by leaving a copy at his/her abode, or by such other service as is allowed by law. |
| December 26, 2020 | MWH Holdings, LLC shall electronically file the return(s) of service with this Court. Failure to do so may result in this action being dismissed without further notice. |
| 30 days after Defendant is served | Certain Underwriters at Lloyd's of London must electronically file an Appearance and Answer or other responsive pleading form with this Court. A copy of the Appearance and Answer or other responsive pleading must be sent electronically to the party/parties listed below. |

Notice to Certain Underwriters at Lloyd's of London: If you do not comply with these requirements you will be considered in default and the Court may issue orders that affect you without your input.

Send copies to:

William E. Aivalikles, ESQ	Law Office of William E Aivalikles PA 253 Main St Nashua NH 03069-2720
Certain Underwriters at Lloyd's of London	25 West 53rd Street 14th Floor New York NY 10019

BY ORDER OF THE COURT

October 21, 2020
(126849)

Amy M. Feliciano
Clerk of Court

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Southern District
30 Spring Street
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE TO DEFENDANT

Case Name: **MWH Holdings, LLC v Certain Underwriters at Lloyd's of London**
Case Number: **226-2020-CV-00536**

You have been served with a Complaint which serves as notice that this legal action has been filed against you in the **Hillsborough Superior Court Southern District**. Review the Complaint to see the basis for the Plaintiff's claim.

Each Defendant is required to electronically file an Appearance and Answer 30 days after service. You may register and respond on any private or public computer. For your convenience, there is also a computer available in the courthouse lobby.

If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: www.courts.state.nh.us, select the Electronic Services icon and then select the option for a self-represented party.

1. Complete the registration/log in process. Click Register and follow the prompts.
2. After you register, click Start Now. Select **Hillsborough Superior Court Southern District** as the location.
3. Select "I am filing into an existing case". Enter **226-2020-CV-00536** and click Next.
4. When you find the case, click on the link and follow the instructions on the screen. On the "What would you like to file?" screen, select "File a Response to Civil Complaint". Follow the instructions to complete your filing.
5. Review your Response before submitting it to the court.

IMPORTANT: After receiving your response and other filings the court will send notifications and court orders electronically to the email address you provide.

A person who is filing or defending against a Civil Complaint will want to be familiar with the Rules of the Superior Court, which are available on the court's website: www.courts.state.nh.us.

Once you have registered and responded to the summons, you can access documents electronically filed by going to <https://odypa.nhecourt.us/portal> and following the instructions in the User Guide. In that process you will register, validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

If you have questions regarding this process, please contact the court at 1-855-212-1234.

JURY TRIAL REQUESTED

226-2020-CV-00536

STATE OF NEW HAMPSHIRE
HILLSBOROUGH COUNTY SUPERIOR COURT - SOUTHERN DISTRICT

MWH Holdings, LLC

v.

Certain Underwriters at Lloyd's of London

COMPLAINT

NOW COMES the Plaintiff and sets forth the following Complaint:

I. PARTIES

1. The Plaintiff, MWH Holdings, LLC, hereinafter referred to as "MWH" is a New Hampshire Limited Liability Company with a principle place of business located at 253 Main Street, Nashua, NH.
2. The Defendant, Certain Underwriters at Lloyd's of London, hereinafter referred to as "Lloyd's" with a principal place of business at Museum Office Building, 25 West 53rd Street, 14th Floor, NY, 10019.

II. FACTS

3. The Plaintiff did purchase an insurance policy insuring 235 Main Street, Nashua NH, hereinafter referred to as "the building" for any casualty losses.
4. Lloyd's did issue an insurance policy #XEQ3461417
5. On July 11, 2019, the building was struck by a motor vehicle that was being operated at a high rate of speed.
6. When the vehicle crashed into the building, it caused significant property damage including severe structural damage.
7. The damage to the building amounted to at least \$129,300.00 which damage amount is increasing due to the deteriorating structural deficiencies caused by the crash.
8. Lloyd's refuses to fully and fairly compensate MWH for the damages that the building sustained as a result of the crash.

III. CAUSE OF ACTION

COUNT I - BREACH OF CONTRACT

9. MWH incorporates by reference all of the allegations contained in Paragraphs 1 through 8 not inconsistent herein.
10. Lloyd's did breach its contract of insurance with MWH.
11. Lloyd's failed to properly adjust MWH's claim, and failed to make a reasonable offer to settle in light of the extensive documented damages.
12. Lloyd's breached the New Hampshire implied covenant of good faith and fair dealing since it failed to make a reasonable offer to compensate MWH when it determined the property loss was \$27,503.65. Lloyd's has not conducted itself reasonably and contrary its duty to its insured.
13. Lloyd's has engaged in bad faith in the way it handled MWH's claim in light of the significant damages with full knowledge of the documented losses.

COUNT II – NEGLIGENCE

14. MWH incorporates by reference all the allegations contained in Paragraphs 1 through 13 not inconsistent herein.
15. Lloyd's had a duty to fairly and reasonably adjust MWH's claim.
16. Lloyd's breached its duty that it owed MWH as follows but not limiting the foregoing: not tendering a reasonable offer and fairly adjusting the claim which necessitated this lawsuit; not properly evaluating the claim and totally ignoring the compelling and substantial property damage sustained.
17. That as a direct and proximate result of Lloyd's negligence, MWH sustained significant property damages as set forth herein that exceed the minimum jurisdictional amount of the Superior Court.

IV. CONCLUSION

18. MWH seeks a jury determination of the property damage the building sustained.
19. MWH seeks enhance compensatory damages as a result of Lloyd's bad faith and willful conduct.

Respectfully submitted by,
MWH Holdings, LLC
Through its attorney,

Date: October 19, 2020

/s/ William Aivalikles
William Aivalikles, Esq. NHB #308
253 Main Street
Nashua, NH 03060
Phone: 603-880-0303
Fax: 603-882-0065
Email: william@nhtriallaw.com

Merrimack County Sheriff's Office

ROBERT P. KRIEGER
333 Daniel Webster Hwy
Boscawen, NH 03303
Phone: 603-796-6600

CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON
21 SOUTH FRUIT ST
CONCORD, NH 03301

AFFIDAVIT OF SERVICE

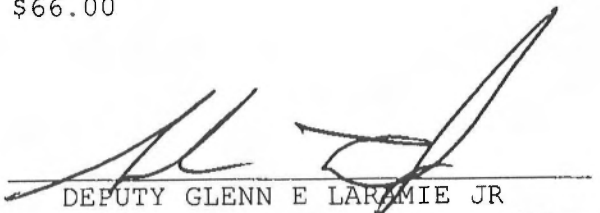
MERRIMACK, SS.

11/ 5 /2020

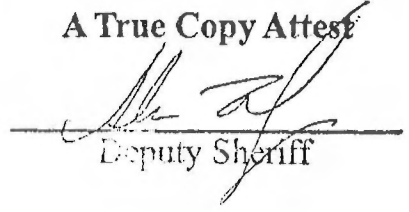
I, DEPUTY GLENN E LARAMIE JR, this day at 12:02 a.m. (p.m.), summoned the within named defendant, CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON, by leaving at the office of Christopher R. Nicolopoulos, Insurance Commissioner for the State of New Hampshire, its true and lawful attorney for the service of process under, and by virtue of, Chapter 405:10 NH RSA as amended, two true and attested copies of this Summons and Complaint and I paid said Commissioner for the State twenty-five (\$25.00) dollars as their fee for accepting service.

FEES

Service	\$25.00
Postage	1.00
Travel	15.00
Pd NH Ins. Commissioner	25.00
TOTAL	<u>\$66.00</u>


DEPUTY GLENN E LARAMIE JR
Merrimack County Sheriff's Office

A True Copy Attest


Deputy Sheriff

Freitas, Susan

From: NHCourtsNo-Reply@tylerhost.net
Sent: Wednesday, December 02, 2020 1:12 PM
To: Freitas, Susan
Subject: Courtesy Copy of Service for Case: 226-2020-CV-00536, MWH Holdings, LLC v Certain Underwriters at Lloyd's of London for filing Notice-Removal to Federal Dist Ct

External Email



Copy of Service

Case Number: 226-2020-CV-00536
 Case Style: MWH Holdings, LLC v Certain Underwriters at Lloyd's of London
 Envelope Number: 1449551

This is a courtesy copy of service for the filing listed. Please click the link below to retrieve the submitted document.

Filing Details	
Case Number	226-2020-CV-00536
Envelope Number	1449551
Case Style	MWH Holdings, LLC v Certain Underwriters at Lloyd's of London
Date/Time Submitted	12/2/2020 1:11 PM EST
Filing Type	Notice-Removal to Federal Dist Ct
Filing Description	Notice to State Court of Filing of Notice of Removal
Filed By	Brian Suslak
Service Contacts	MWH Holdings, LLC: William Aivalikles (william@nhtriallaw.com) Janna Wojtas (Janna@NHTriallaw.com) Certain Underwriters at Lloyd's of London: Brian Suslak (bsuslak@morrisonmahoney.com)
File Stamped Copy	Download Document
This link is active for 180 days.	

If the link above is not accessible, copy this URL into your browser's address bar to view the document:

<https://newhampshire.tylerhost.net/ViewServiceDocuments.aspx?ADMIN=0&SID=936322b7-a7ea-4fce-9dfa-2c587f5669d5>

Important: This is how you will be contacted regarding cases. Please add NHCourtsNo-Reply@tylerhost.net in your address book.

For further assistance, please contact the court.

1-855-212-1234

This message was automatically generated. Please do not reply to this email.